

III. REMARKS

Claims 1-4 and 7-8 were rejected under 35 U.S.C. 102 as being anticipated by Ejzak (US 6,721, 565), and Claims 5-6 and 9-12 were rejected under 35 U.S.C. 103 as being unpatentable over Ejzak in view of Forslow (US 2003/0039237) for reasons set forth in the Office Action.

The following argument is presented to overcome the foregoing rejections, and to show the presence of allowable subject matter in the claims.

Various ones of the claims are amended, and new claims are presented to distinguish the claimed subject matter from the teachings of the cited art. The new dependent claims 13 and 14 are supported in the present specification on page 6, lines 20-25 and page 6, line 35 to page 7, line 2. The new independent claim 15 is supported e.g. by paragraph [0016] and the ensuing description.

The examiner employs Ejzak as the primary reference for rejection of the independent claims and some of the dependent claims, with Forslow being employed in combination with Ejzak for rejection of the remaining claims. It is believed that Ejzak fails to teach important aspects of the presently claimed subject matter, in view of the following analysis.

Ejzak relates to arranging a handover between a packet domain network and a circuit domain network. Ejzak teaches a gateway system that enables emulation of the behavior of a source system when a handover is made to a target system.

Ejzak fails to disclose the currently claimed feature of checking the attachment to the packet-switched network. The description on column 14, lines 18-29 (referred to by the examiner in conjunction with Fig. 5) merely mentions that a call is established, and illustrates some control paths between the mobile station and the network elements for

enabling packet-switched data transfer. There is no indication of the feature (set forth in the present claims) of checking attachment to a packet-switched network.

Also, with reference to Ejzak, the examiner refers to the quality of the RF path (middle of Page 3 of the Action). However, this checking determines the need for handover for an ongoing call, and is entirely separate from the original call establishment; see e.g. col. I4, lines 18-19 and line 33. Checking of RF path quality (which involves radio signal strength measurements, as also explained in col. 11, lines 38-50 of Ejzak et al.) is an entirely different procedure than the checking of attachment to a packet-switched network (e.g. in case of GPRS network, checking of mobility management context is explained in par. [0017] of the present specification).

This shows that the teaching of Ejzak cannot serve as a basis for rejection of the present claims because Ejzak fails to disclose any such attachment checking and any further actions on the basis of such attachment checking as currently claimed (for example, please see, in claim 1: transmitting said at least one message to the second network in response to the mobile station being attached to the second network).

Furthermore, Ejzak et al. does not disclose (checking of an attachment to a packet-switched network) in response to the need to transmit at least one message. The cited portion in col. 14, lines 18-29, merely mentions establishment of a call, and as already explained, the handover related features have nothing to do with initial actions as a response to a need to transmit a message as currently claimed, such as a short message for which no call is required.

Ejzak et al. also fails to disclose the currently claimed feature of transmitting the message to a circuit-switched network in response to failure in transmitting the message via the packet-switched network. The cited portions of Ejzak et al. merely disclose that a handover from a packet-switched network to a circuit-switched network is in response to detecting a need for such handover. This determination is described in

column 11, lines 31 – 50. Handover is performed for an ongoing call to maintain continuity, e.g. to maintain a voice call when the call participant is moving, whereas the presently claimed subject matter is about transferring a message. This is fundamentally different and there is no need for such continuity.

To illustrate this difference, handovers are conducted, in order to maintain uninterrupted connection, when radio conditions (or some other network status) give reason for this, as explained in col. 11 of Ejzak, whereas a message is transmitted when there is an instruction (typically user-triggered) to do so, and there is no need to reserve radio resources after such single message transmission event. Transmission of a message simply cannot be held as similar to handing an ongoing call carried out by another radio network. The handover solution of Ejzak et al. is hence technically very different, involving also various signaling between network elements, as explained in column 14.

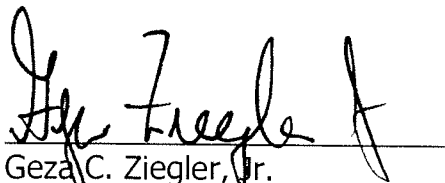
Furthermore, besides these fundamental differences, there is no indication of specifically transferring a message to a circuit-switched network in response to failure in transmitting the message via the packet-switched network; but the cited portion of col. 11 merely discloses handover triggering based on radio signal measurements or network load balancing.

The above notes on differences between a handover for an ongoing call and a message transmission also apply for other currently claimed features against which the handover related features in columns 11 and 14 of Ejzak are cited. To summarize, the handover related features of Ejzak cannot anticipate features of the presently claimed subject matter for a message transmission. The foregoing conclusion is maintained even upon combining the teachings of Forslow with the teachings of Ejzak. Accordingly, this argument is believed to overcome the grounds of rejection under 35 U.S.C. 102 and 103 to show the presence of patentable subject matter in the claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

12 OCTOBER 2006
Date

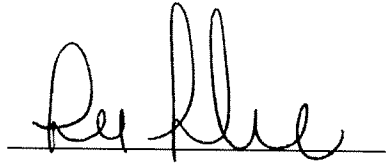
Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted electronically, on the date indicated below, addressed to the Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 12 October 2006

Signature: _____



Lisa Shimizu

Person Making Deposit